

## **NEW JERSEY RACING COMMISSION**

### **Horse Racing**

#### **Eligibility; Registration Required**

Proposed Amendment: N.J.A.C. 13:70-6.53

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director

Authority: N.J.S.A. 5:5-30

Calendar Reference: See summary below for explanation of exception to calendar requirement

Proposal Number: PRN 2007—5

Submit written comments by March 3, 2007 to:

Frank Zanzuccki, Executive Director  
New Jersey Racing Commission  
P.O. Box 088, 140 East Front Street  
Trenton, New Jersey 08625

The agency proposal follows:

#### **Summary**

The New Jersey Racing Commission requests comment regarding proposed amendments to N.J.A.C. 13:70-6.53 that establish registration requirements to participate in races restricted to New Jersey bred foals as authorized by N.J.S.A. 5:5-49 and 66. The thoroughbred breeding industry in the State is experiencing a continual decline in the number of New Jersey bred horses foaled each year and the number of stallions standing in New Jersey. In an attempt to reverse this trend, the Thoroughbred Breeders' Association of New Jersey petitioned (see 38 N.J.R. 1609(a)) the New Jersey Racing Commission to amend its rules to redefine

New Jersey bred foal to include those horses foaled in New Jersey during a period in which the mare is considered a non-resident “New Jersey mare.” The amendment also sets the definition of a non-resident New Jersey mare to be a mare that has not returned to New Jersey by September 1 of the year prior to foaling. In addition, it permits the resulting foal be registered as a New Jersey-bred provided the mare is bred to a registered New Jersey stallion the season of birth of said foal and remains in New Jersey for a continuous period of 90 days after foaling.

N.J.A.C. 13:70-6.53(b) is amended to establish the change in qualifications for registration to include foals of horses considered non-resident New Jersey mares, and proposed new paragraph (b)2 defines a non-resident New Jersey mare and foals eligible for registration as New Jersey breds.

Existing N.J.A.C. 13:70-6.53(c)2ii is recodified with one reference change in the text.

Existing N.J.A.C. 13:70-6.53(c)2iii is recodified with no change in text.

Proposed new N.J.A.C. 13:70-6.53(c)2ii adds to the list of non-accredited New Jersey bred foals those foaled in New Jersey during the period which the mare is considered a non-resident “New Jersey mare.”

The Racing Commission provides for a 60-day comment period on this notice of proposal. Therefore, this proposal is exempt from the rulemaking calendar requirement in accordance with N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

Preservation of open space as a result of increased breeding farm activity is a quality of life issue that will be enhanced by the amendments to this rule. Breeding farms that are struggling financially now will have a better chance to succeed thus retaining desirable open space. The proposed amendments to N.J.A.C. 13:70-6.53 will have a positive social impact on the horse breeding industry, specifically the Thoroughbred Breeders' Association of New Jersey, possibly resulting in increases in membership and status.

In addition, the horse race industry in New Jersey will benefit from an increase in the number of horses available to compete in New Jersey bred races and the potential increase in stature of New Jersey racing. Large numbers of quality horses competing in races in New Jersey will most likely result in an increase in attendance and wagering at racetracks and other venues producing greater entertainment value for the public at large.

### **Economic Impact**

Breeding and racing of New Jersey Thoroughbreds are integral parts of the State's billion dollar horse racing industry. The proposed amendments to N.J.A.C. 13:70-6.53 provide impetus to breeders to increase production of New Jersey foals, by including in that definition horses foaled in New Jersey during a period in which the mare is considered a non-resident "New Jersey mare." This will allow more horses to qualify for New Jersey Breeders awards included in purses in restricted races, thereby increasing revenues for breeders.

Owners, trainers, jockeys, stable employees, horsemen's association,

breeders, and racetrack associations rely on revenues from wagering for their income. Thus, the racing community at large will benefit from higher revenues derived from a probable upswing in wagering activity associated with more competitive horse racing.

### **Federal Standards Statement**

A Federal standards analysis is not required because the rules of racing are dictated by State statute, N.J.S.A. 5:5-22 et seq., and the proposed amendments are not subject to any Federal requirements or standards.

### **Jobs Impact**

The proposed amendments will encourage an increase in breeding activity at New Jersey thoroughbred breeding farms and possibly spur the development of more breeding establishments. These events should result in the creation of more employment opportunities in the industry.

Once foals are of racing age (two years), the racetracks should realize an increase in the number of horses entered in New Jersey races. The more competitive the racing, the more attractive the racing becomes to the betting public, resulting in higher revenue to the industry. Thus, the potential increase in employment in the horse racing industry is enhanced by this increased breeding activity.

### **Agriculture Industry Impact**

The proposed amendments will have no impact on the agriculture industry

in the State. Racehorses are not considered livestock for the purpose of determining any impact on the agriculture industry.

### **Regulatory Flexibility Analysis**

Thoroughbred breeding farms and training facilities are considered small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments to N.J.A.C. 13:70-6.53 impose increased, but similar, reporting, recordkeeping and compliance requirements on these small businesses. Existing staff at most facilities should be able to absorb the additional reporting and recordkeeping generated by increased breeding activity, but some facilities might need additional staff or office equipment to handle the increased workload. Racing Commission rules require licensing of all individuals working on thoroughbred training and boarding facilities as well as licensing of the establishment and owners thereof. Any increase in staff or any new facilities created as a result of the enactment of these amendments will require payment of fees associated with compliance with Racing Commission rules. Since annual license fees do not exceed \$100.00, economic impact will be minimal.

The Thoroughbred Breeders' Association of New Jersey requires payment of registration fees in order to participate in the Breeders awards program. The economic benefits of participation in this program far outweigh the costs of registration. Thus, any economic impact of program participants will be negligible.

### **Smart Growth Impact**

The proposed amendments to N.J.A.C. 13:70-6.53 will have a positive effect on the smart growth policies associated with the implementation of the State

Development and Redevelopment Plan as defined under Executive Order No. 4(2002). Retention and/or increase in open space are major components of the Plan. Thoroughbred breeding farms and training facilities occupy substantial amounts of open space in New Jersey at present. Providing impetus for increased economic growth in this industry will result in the retention of these open spaces or perhaps an increase in the amount of open space if new facilities are developed.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

13:70-6.53 Eligibility; registration required

(a) (No change.)

(b) To qualify for such registration, the said horse must have been foaled in the State of New Jersey by a resident New Jersey mare or **a non-resident New Jersey mare or** conceived by a resident "New Jersey stallion."

1. (No change.)

**2. A non-resident New Jersey mare is a mare that has not returned to New Jersey by September 1 of the year prior to foaling. The resulting foal may still be registered as a New Jersey-bred provided the mare is bred to a registered New Jersey stallion the season of the birth of said foal and remain in New Jersey for a continuous period of 90 days after foaling.**

[2.] **3.** (No change in text).

(c) Only New Jersey bred foals as defined below are eligible to enter and start in races exclusively for New Jersey bred foals. New Jersey bred foals are

placed in two categories which are defined as follows:

1. (No change.)
2. A “non-accredited” New Jersey bred foal is a horse that is:

- i. (No change in text.)

- ii. Foaled in New Jersey during a period in which the mare is considered a non-resident “New Jersey mare” as defined in (b) 2 above.**

- [ii.] **iii.** Conceived in New Jersey by a “New Jersey stallion”

as defined in (b) [2] **3.** above but not foaled in New Jersey; and

- [iii.] **iv.** (No change in text.)

(d) - (h) (No change.)